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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/890,490 | 07/31/2001 | Alan Chin Leong Yeo | PHN 17,751 | 1700 |

24737 7590 10/30/2006

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER

NGUYEN, DUC M

ART UNIT PAPER NUMBER

2618

DATE MAILED: 10/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|---|--------------------------------------|-----------------------------------|--|
| Advisory Action Before the Filing of an Appeal Brief | Application No. 09/890,490 | Applicant(s) YEO ET AL. | |
| | Examiner Duc M. Nguyen | Art Unit 2618 | |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 October 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: 10, 11 and 13-20.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see the attached "Response to arguments".
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Response to Arguments

1. Applicant's arguments filed 10/10/06 have been fully considered but they are not persuasive.

As to claims 10-11 regarding 35 U.S.C 103 (a) over Kim in view of Sakashita and Enoki, Applicant contends that neither Kim nor Sakashita nor Enoki teaches an RF filter is adjusted based on a figure-of-merit, and contend on page 6 that

"Because Kim specifically teaches that a conventional AFC loop is used to control the frequency of the local oscillator, and not a figure of merit from the processed signal, an assertion that "Kim would obviously, if not implicitly," teach the applicants claimed invention is baseless and unsupportable. As such, the applicants respectfully maintain that the rejection of claims 10 and 11 under 35 U.S.C. 103(a) over Kim, Sakashita, and Enoki is unfounded, per MPEP 2142."

In response, it is noted that Applicant fails to provide the reason why a "conventional" AFC loop would not use a figure-of-merit from the processed signal. In fact, a "conventional" AFC loop would use a "frequency error data" in order to adjust the local oscillator frequency, and this "frequency error data" would read on a "figure-of-merit" by itself, whereas this "frequency error data" can also be derived from other "figure-of-merit" data such as RSSI, or BER. Further, the examiner asserts that the AFC loop in Enoki's reference is one of "conventional" AFC loops. Therefore, by simply utilizing the BER as a "digital" figure-of-merit (Enoki's teaching) for controlling the AFC and the RF filter in Kim's receiver circuit, Kim in view of Enoki would teach an RF filter is adjusted based on a digital figure-of-merit as claimed, for utilizing accuracy of BER measurement to improve the performance of the tuning method. Since Kim and Enoki

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both direct to an AFC loop, the combination is proper. Here, Enoki's teaching is used solely for its teaching regarding a "digital" limitation for the figure of merit.

As to claims 13-20, Applicant's arguments regarding a "conventional" AFC loop and a "figure-of-merit" are not persuasive for the same reason as set forth above.

For foregoing reasons, the examiner believes that the pending claims which rely on the patentability of adjusting the center frequency of a filter based on a digital figure-of-merit are not allowable over the cited prior art.

2. **Any response to this action should be mailed to:**

Box A.F.

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(571) 273-8300 (for **formal** communications intended for entry)

(571)-273-7893 (for informal or **draft** communications).

Hand-delivered responses should be brought to Customer Service Window, Randolph Building, 401 Dulany Street, Alexandria, VA 22314.

Any inquiry concerning this communication or communications from the examiner should be directed to Duc M. Nguyen whose telephone number is (571) 272-7893, Monday-Thursday (9:00 AM - 5:00 PM).

Or to Matthew Anderson (Supervisor) whose telephone number is (571) 272-4177.

Duc M. Nguyen, P.E.

Oct 18, 2006

